IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5894 of 2003

Sou.Savita Ramkrishna Jadhav & Ors...Petitioners

Versus

Shri Ramkrishna Karbhari Jadhav....Respondent

Mr. P.N. Joshi, for the Petitioners

**CORAM: F.I. REBELLO J.**
**DATE :** 12th January, 2005

P.C.:

. Respondent was served. None appears for the Respondent. Rule. Heard forthwith.

2. Grievance of the petitioners is to the order dated 13th January, 2003 passed by the Executing Court by which the Executing Court has refused to proceed with the execution if the petitioners herein do not deposit a sum of Rs.2.00 lakhs which was paid in terms of the consent terms based on which the suit was filed. After considering the contentions advanced in my opinion there is nothing in the consent terms as to whether the said amount stands forfeited or whether the said amount is to be retained. Similarly, clause 10 will indicate that there is a bank loan for which the property has been charged in a sum of Rs.3,25,000/-. Considering the above contention the Executing Court is directed to proceed with the execution without insisting for predeposit of Rs.2.00 lakhs and to pass final orders on that amount after hearing the parties at the stage of final partition. Issue of withdrawal

of divorce proceedings can also be decided at the time of final disposal of the proceedings in partition. Rule made absolute to the extent above. There shall be no order as to costs.

. Parties/Authorties to act on an ordinary copy of this order duly authenticated by the Personal Secretary/Associate of this Court.

**(F.I.REBELLO,J.)**